IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITON NO.3244 OF 2004

Jay Bhavani Mehta Co. & Ors. ..Petitioners.

V/s.

The Union of India & Ors. ..Respondents.

Mr.K.K.Shroff with A.H. Mehta i/b. Akshar Laws for the petitioners.

Mr.A.J.Rana, senior counsel with Mrs.S.V.Bharucha for the respondents.

CORAM : S.RADHAKRISHNAN AND J.P.DEVADHAR, JJ.

DATED : 14TH FEBRUARY, 2005.

P.C. :-

1. Heard the learned counsel for the petitioners and the respondents. By this petition, the petitioner is challenging the order dated 28th June, 2004 passed by the CEGAT wherein the CEGAT has refused to infertere with the order passed bay the Tribunal.

2. By an Order-in-Original dated 28th September, 1993 goods were confiscated and thereafter penalty and

redemption fine were also imposed. Aggrieved thereof, the petitioner had preferred an appeal. The Commissioner of Central Excise (Appeals) by his order dated 3rd November, 1995, allowed the appeal in favour of the petitioners with consequential relief. Aggrieved by the said order, the respondents had preferred an appeal before the CESTAT. CESTAT dismissed the appeal by its order dated 26th April, 2002.

3. It may be noted here that though the appeal was pending before CESTAT there was no stay granted and the petitioners did not take any steps to clear the goods.

4. Mr.A.J.Rana, learned counsel for the revenue states that the goods were stolen from the premises where the goods were stored.

5. Both the learned counsel fairly state that with regard to the value of the seized goods, there is no dispute and the same is valued at Rs.9,55,500/-.

6. Having regard to the facts and circumstances of the case and also the prevailing rate of interest, we are inclined to direct the respondents to pay to the petitioner a sum of Rs.9,55,500/- asq the goods have been stolen, with interest @ 9% p.a. from 26th April, 2002,

till payment

7. Respondents shall make the aforesaid payment within a period of 4 weeks from today failing which the respondents shall pay the interest @ 15% p.a. from 26th April, 2002, till payment.

Parties to act on an ordinary copy of this order duly authenticated by the Associate/C.S.

(S.RADHAKRISHNAN, J.)

(J.P. DEVADHAR, J.)